585 184 The customary dues are as in a marriage with parties; eating and drinking and beer are also in the same way. After having had food and drink the bridegroom's party bring the bride to the bridegroom's home. Three brothers of the bride and a duenna go along with the girl. For "finishing the painting" and for "fireplace damages" nothing has to be given. The applying of sindur is done in the house of the bridegroom. Here they also act as customary at a marriage with parties. In connexion with taking the pair away and back again it is also as in other marriages.

h. Ghardi jäwäe[42] (house son-in-law).

583 People who have no son, or whose sons are small and not fit to do any work, such people keep house sons-in-law, when they have grown up daughters; and only a poor man or an orphan will stay as a house son-in-law. House sons-in-law have no brideprice or expenses to pay, nor have they any customary dues to give; the expenses are all on the girl's side. The marriage is performed for them like for other people. They serve for the bride five years with their father-in-law. They do not get any wages, only food and clothes. When they take in a house son-in-law, they show him a calf. If before the five years are gone, the girl does not pull together with her husband, he goes away taking the calf with him. At the time when the two are married the father gives also the girl a calf. And for five years she gets her reaping perquisites, and this paddy she gives out on interest to somebody. When five years have passed, they will, if they are pleased, stay on, getting wages; if not, they leave.

[428] And if a girl's parents have no male children, and if the house son-in-law and his wife will take care of and feed the two (parents) until death, the two will get the house and household, all the agricultural and other land, and they will get half the cattle; the other half the brothers (or cousins) of the girl's father will get. The ghardi jäwäe and his wife have to bear the expenses in connexion with the final funeral ceremonies. If there are two or three house sons-in-law, they divide.

i. The marriage of widowers, widows, and divorced ones.

587 [539] Widowers are not liked; therefore (girls) will not quickly agree to be married to such ones. They say: "As a widower snarled"; "a widower a worn-out broom, scraping, scraping, who will be fool enough to agree to be married to such a one"?

Divorced men are not liked either. They say: "A divorced man, a fickle fellow, who knows for how many days."

They also put blame on widows. They say: "A widow, a stallion, neighing, neighing."

Divorced girls are especially blamed. They say: "A divorced girl, the head of a maena, smooth, smooth"; "a divorced girl, a green Bulbul bird, they cry in a thousand ways";

[42] See Dictionary s. v.

Z: Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

IV. WHEN A MARRIED SON LIVES IN THE HOUSE OF HIS FATHER

a. Brothers living together.

Santals do not at once, when getting married, set up separate households; they stay in the house of the man's parents. If a man moves away to live in the house of his father-in-law, they blame him very much, and such a man will not afterwards get any share of the inheritance. Some people will, because they are annoyed beyond sufferance, perform the final funeral ceremonies for such a son. Nowadays a few men will give them a share of the original property; but this is only a favour; formerly they had no right to this. 428 591

Until the father makes his sons set up separate households, they work together, eat together. The parents of the young men look upon their daughters-in-law as their own daughters. Among his sons the father will love the oldest son most, provided he is good, and the mother will love her youngest child most. The young men with their wives honour their uncles and aunts like their own parents, and these look upon them as their own children. 591 593 606 604

The father guides, instructs and tutors his sons, and the mother does the same with her daughters-in-law and daughters. The younger daughters-in-law address the elder daughters-in-law as elder sisters and obey their word like that of their mother-in-law; the elder daughters-in-law address the younger ones, saying "girl" to them, and look upon them as younger sisters. When the parents have lost their strength, the eldest son and the eldest daughter-in-law manage the household, and they have to stand up when the young ones misbehave or commit any fault. If the elder ones while living let the younger ones manage, awful quarrelings arise. The old man mostly scolds his wife if the work and business don't go well, and now and then he will also upbraid his sons, but never his daughters-in-law. Those who really start quarrels, are the mothers-in-law and daughters-in-law, and the wives of the brothers, and through their quarrels brothers also become enemies. Santals say: "A mother-in-law, a bitter pumpkin, not tasty"; "a daughter-in-law, plugged ears, they don't hear"; "a daughter-in-law, a python snake, dragging themselves along, they do not move". Of the husbands of daughters they say: "A daughter's husband, crooked firewood, will be still more crooked"; "Another's child, a forest fowl, they will not become one's own". 593 606 607 [539]

An elder brother's wife and the younger brothers and sisters of her husband are great friends; they do not quarrel. Girls tell the wife of their elder brother everything, both 607

2: Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

607 good and bad, and the young men speak and laugh much with the wife of their elder brother; no one takes any notice of this.

603 Old men and their wives love their grandchildren very much; they carry them on their hips, they fondle them, and the wives of brothers also, if they live in peace with each 854 other, carry the children of them all on their hips and fondle them, and when they have 855 fever or are ill, they also nurse each other.

b. Separation of brothers.

• 428 When the grandchildren become very numerous, or when they do not live in harmony in the house together, the parents separate them. In connexion with the village headman and the village council the father divides the agricultural and other land, the cattle, big and small, all in equal parts, and gives it to them, and he keeps for himself one part, and the son with whom the old couple stays, with him their part will stay. When the parents lose all strength, the sons have to support them, because at the time when the children were unable to support themselves the parents supported them with great hardship. Daughters do not get any share. Generally, at the time when they are married, they give them each one calf. And at the time of separation, if they are spinsters, they give them a calf. And sons, who at the time of separation are bachelors, get a double share of the cattle, one share being for their marriage. The pieces of cattle that daughters-in-law have got from their father and brothers, and from their father-in-law at the time of marriage, these are not divided; but the cattle, that sons-in-law get from their father-in-law at the time of marriage, these are divided.

2: Skrefarud M-5 (1870-1871) 1942 AW42 Santal AW42

602 Every year in the month of Dasãe (Aug.—Sept.) husband and wife go round to visit their relatives, even when they live very far away, in so far as they know of them, provided they have grown-up sons in their home, otherwise only the man will go. The meaning of visiting relatives is this: that they may not be lost to each other.

Any time they are in want of resources, the relatives on the man's side and those on the woman's side will help each other, when they live in harmony with each other, whether it be in connexion with food or with draught-cattle. And when some among the 602 relatives become orphans, or they are in straits, at such times relatives who have the means 736 will take care of them, or they will divide their own land and fields with them. But such people who are rescued from poverty and difficulties, are mostly ungrateful; only a few people show gratitude. If these ungrateful persons put on just a little flesh, they will show you the thumb (defy you), they may let you go adrift. They will say: Do you imagine that you have supported me, until I have become full grown; why, I have been supported by my own strength. At any time when you are in need, they will leave you in the lurch. They grow up, then look, off they are. But such people will some day get their retribution, if not they themselves, then their children.

602 What women have really to rely on, is their father and male relatives. When husband and wife do not live in harmony, or when the husband worries and beats his wife, or somebody calls her a witch, then she will cry out to her father and male relatives, and they will stand up for her. This is their right, because on the day of her marriage they have stipulated for this. Without informing her father and male relatives they do not go to a witch-finder. And if these are not satisfied with one witch-finder, they will take them to five such places. Because of this the women have great trust in their father and male relatives.

1. When husband or wife dies.

428 If the mother dies before her children are married, then even if their father has got 592 a second wife, the sons cannot demand a division. But if the sons at that time are married, they can, if they wish, set up separate households. The village council meet and divide the property; the father gets one part, and the sons one part each. In case the second wife has not borne the man a male child before he dies, then after his death the sons of the first wife can take possession also of the part left by the father. If they take possession of this, they will have to perform the final funeral ceremonies for their stepmother, when she dies.

428 If any woman becomes a widow without having borne any male child, the father or the 736 male relatives of the man get all the property; the woman gets only one calf, one bundle of paddy, one brass-cup and a cloth, and she leaves and goes to the house of her father and brothers. In such a difficult position some people will keep an elder brother's wife; they will not let her go to the home of her father and brothers. Santals call this very good.

2: Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

428 ∞ 736

A person who keeps his elder brother's wife gets only his own share of the property of his deceased elder brother, he does not get all.

When the widow has daughters, then their grandfather or the elder or younger brothers of their father will take mother and children to themselves and support them, and the property will remain in their hand. When the daughters grow up, they will give them away in marriage, and as they would get presents from their father at the time of marriage, in the same way these also give them, and their mother they will support until she dies. If such a one does not stay there, she will get her customary right like a childless widow and go to her father's or brother's house, or she will go and live with a daughter.

A widow having sons will keep all the property in her hand. The grandfather of the children or the younger and elder brothers of their father have only a right to see that their mother does not squander anything. If the mother marries again before the children are married, their grandfather or the younger or elder brothers of their father will collect the children and all the property, and the mother of the children will by right get nothing. Some people will give her a calf as a present for the sake of a farewell feasting.

The law of inheritance is this: A man's father will get the property of a son. If he is not living, the full brothers of the man will get the property. In case these are not living, that is to say, if they have died, then the sons of these, that is to say, the sons of the man's younger and elder brothers will get it. And when these or sons of these are not living, then the dead man's uncles or their sons will get it. And in case there are no inheritors, the king of the country will get the property.

2: Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

XIV. WHAT HAS BEEN ADDED BELOW IS BY SIDO DESMAÑJHI SARDAR OF AMBAJOṚA[1]

a. About adoption.

When a man marries a second wife[2], and this second wife has a son of her first husband brought with her, then if he wishes to give him full adoption, the man tells the village headman of this, that is, he informs him what they have both decided. The village headman then invites those who can claim this child, and they come to talk the matter over. In the presence of the village headman they consult together, whether they shall set the child free or not. If they set the child free, they say: Well, Father headman, we the claimants have before you and before the village people renounced all claims on this child. So from to-day he belongs to this stepfather of his. Consequently he has no right to his natural father's lands or cattle, money and so on; he will not get anything. 597

When this is said, they ask the stepfather for five four-anna bits, the provision of the sitting village council. Thereupon they salute each other and separate.

Now the stepfather fixes a day for adopting the child. Then on the day fixed he calls out for being shaved, as at the name-giving festival. They are shaved in the same way, and in the same way they drink Nim-gruel. And then the "midwife" informs the gathered men and women of the stepfather's sept. Thereupon they separate.

Now they give the child the Baha Sgḥrae, i. e., the real original bonga's sacrificial meat and rice. From this time the child has become his own child. And this child will get an equal share with his stepfather's own sons of his agricultural lands, money, and cattle. But while the real sons have a right to the property of cousins when they die out, he has in the same way no right to their property; only to the property of his stepfather he has a full right. 597 428

b. About adopted children.

Now and then they adopt orphan children and support them. And when they grow into maturity, these also get an equal share to those of the proper children in the agricultural lands, money, and cattle. If such a boy dies and falls away, and there is any property of

[1] What here follows was added at the request of many Santals. Sido was the man best qualified to do this. He had for many years as dṣe mạñjhi had to do with these matters; he had also been an honorary magistrate. [115]
[2] Naturally a widow.

2: Skrefsrud M-S (1870-1871) 1942 AW42 Santal AW42

597 his, then the sons of the adopting man get this property or that of his wife. But the cousins of the adopted man get nothing. That is to say, the sons of the adopting man
428 will have the responsibility for the expenses with the final funeral ceremonies and so on. And if he has children, it naturally belongs to them. And when any married people have no children, they may take children of both sides, i. e., children of the wife's brothers, or children of her younger sister, children of the husband's younger or elder brothers, take them to themselves as adopted ones, to be supported by them until death. These adopted ones also, in the same way, get their share of the agricultural lands, if children of the adopting pair have been born. And if they have got no children, all property will naturally belong to the adopted son. Mostly such childless people take in sons as adopted ones.

[178] Now and then they have taken in real adopted ones. When formerly — it is now some three scores of years ago — there was an insurrection, then they adopted many. At the present time they also now and then adopt. Nowadays, since the European missionaries
597 have come, these show mercy to orphans. Rather, these European teachers are like claimants
797 following up and finding their rice-lands and other lands. This is a righteous act much greater than everything else they do. They are teaching them knowledge at their own expense. They do not seek to be supported until death like us; they are rather themselves supporting others.

c. Wife's children taken in.

428 When a man takes a second wife, and she brings with her children, viz., of her former
587 husband, we call such children saṅgha lọṭọm (taken in by wife's second marriage). If they are boys, these children have no right to get the stepfather's agricultural lands and so on. But the stepfather will with pleasure procure land and a homestead field for such a one from the village headman, giving money of his own household as salami. And when the remarried woman has any earnings of her own, these belong to the children she has brought with her. But for keeping it in safe custody, she will give the uterine brothers a portion; otherwise they have no right to it.

d. Taking possession on settling.

421 If any one after having done some planting of trees runs away, and the headman of that village settles a man who has come running there, in the run-away man's agricultural land and homestead field, then if there are Mahua trees or water-reservoirs, etc., in that homestead field or in the village street outside the house or in the unit of land, the new settler gets all, including these. Even if there are heirs of the run-away man in this village, they cannot lay claim to the things mentioned, because the new man has taken possession on settling. And even if the run-away man should sometime return to this village, he will not get these trees or water-reservoirs, etc., even if he lays claim to them at the landlord's door, because that man has taken possession on settling.

2; Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

e. Becoming unfitted for use.

Becoming unfitted for use happens in two ways. One way is this: When somebody sets castrated animals aside for the Jom sim, and before they sacrifice them some venerable old man of their sept dies, then these castrated animals become unfit for being sacrificed; these castrated animals are not sacrificed, they only slaughter them. 231 782

The other is in connexion with the rights of daughters or sisters. When a man separates his own sons, or brothers set up separate households, sisters get one cow each, when their father is living; when the father dies without having given a cow to his daughters or sisters, and these girls afterwards ask for this right of theirs from their brothers, then the council people say: Why did you not ask for it while your father was living? Now your right has been cancelled; but the women who follow up their right say: Don't, Fathers, cancel my right; the man is dead; quite so, judgement has not died; this really is, that judgement has been overthrown. 421

And concerning any rights in connexion with marriage they say: Don't, Fathers, cancel my right; this is my right.

f. The sum total of the law of the rights of women.

When a man makes separate establishments for his sons, then he also gives to each of his daughters one cow or calf, or a sheep or a goat. When he gives this to married ones or to spinsters, he gives the same to all. And in this right of theirs, or, if their goats or sheep multiply, in this increase the brothers of a husband of theirs have no right, because the father of the girls has given them this of his own accord. When he made separate establishments for his sons, at that time the girl received them in the presence of her brothers, from her own father. At this very time the matter of father and brothers has been finally settled. But if sons or daughters of her brother herd them, they get wages. And if they multiply in the house of her husband, then the nephews or nieces of the girl will herd them. These she will also in the same way give wages, and if the two wish so, they may give a heifer or a bull calf to the children on both sides. But on both sides they have no right to get this. 428

If there are no cattle, then they will give to each one brass-cup. When selling this brass-cup they buy a calf or a goat for the money they get thereby, and when these multiply, in the same way the heirs on both sides have no right to get any of these either. A pig, or a goat, a sheep, a cow the woman herself may sell, and she will keep the money, and she may also use the money for her clothes and apparel. Such people have now and then, by giving a bullock or a cow with calf as salami, acquired rice and other land in a separate place, and somewhere they have even founded a village after having given salami. Formerly when the Paharias were landlords in this country, they very much appreciated pigs or castrated goats. They were great drunkards; they were eating anything along with liquor. They were easily and quickly beguiled by pigs and castrated goats.

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g. To neutralize the effect of an eclipse.

821 To neutralize the effect of an eclipse is done as follows. In a year when an eclipse of the
• 428 sun or the moon is taking place, a mother of children will say: Do, my sons or daughters,
604 go for us to the family of your maternal uncle to neutralize the effect of the eclipse. If they
593 live in the same village, they go that very day to the family of their maternal uncle. When they have reached there, they say: We have come, uncle, to neutralize the effects of the eclipse. They say to them: All right, my boy (or my girl). Now the mother of these children has brewed beer and takes this to her father's house; and they drink this, pouring some out as a libation. If her father is living, he says to her: What is it, my girl, that you have in mind and have brought? If her father is not living, her brothers will also ask her in the same way. She then says: You remember, your nephews or grandchildren came to neutralize the effets of the eclipse; it is in connexion with this that we have come. Now if the old man is alive, he calls all the boys together. If he is not alive, the brothers come together and consult each other. And they give them a fowl or a goat or a sheep or a pig. If these multiply, then only these children have a right to this property because the wives of all the sons fetch this eclipse-neutralising from their father or brothers. Therefore the heirs on both sides have no right to get anything of the possible increase of these. Only of their own accord the brothers of both sides may give the children a bull- or a heifer calf. They say that formerly, when the cows or the sheep or goats multiplied in the home of a wife's father, and the girl was bringing this live stock from there to her husband's home, then the bonga of her father's home would also come along. Then if this bonga [769] did not return, her husband would have to worship the bonga of the old home of his wife.

h. About harvest perquisites.

421 The harvest perquisites are as follows: When a man's daughter, while unmarried, gets
562 harvest perquisites, her father and brothers will lend her perquisites to somebody at 50 pct. And when these perquisites increase, and from this also cattle multiply, then at the time when her husband brings to his home what has multiplied in the old home of his wife, the bonga of some people will also, it is told, follow together with this property. Therefore some people do not let what they have remain there for a long time, fearing that the bongas will come along. And when anyone marries them, also the brothers of the husband have a right to the harvest perquisites property. But then the father and the brothers of the girl will call out to get a higher brideprice; because they say: We are sending with this our daughter or sister, or: what she owns, half our household. Therefore we shall take a higher brideprice, and of this you will not get anything in return. And when she acquires harvest perquisites after having become a widow or been divorced and this increases, then, in case friends apply for her and she is remarried, this woman alone has

2; Skrefsrud M-5 (1870-1871) 1942 AW42 Santal AW42

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authoritative right to the increase mentioned, because this is her property, that of her husband or her children. The brothers or heirs of her new husband have no right to this. But if both of them have no descendants when they die, then the heirs are the true claimants to the goods of these two.

1. About cumon.

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The cumon is as follows: When a man procures a wife for his son, then the elder sister of this young man, or his younger sister, or his paternal uncles, or his mother's brother's wife, or elder or younger female cousins will put a rupee in the bridegroom's brass-plate at the waving ceremony at the marriage. This they call the cumon rupee. And for this they point out a calf to the girl. If there is any increase from this calf, or it is turned into money, paddy, or rice, this the children of this woman only will get. The heirs of her husband will not get anything. And if she dies without having had children, it will naturally belong to the heirs.

2: Skrefarud M-5 (1870-1871) 1942 AW42 Santal AW42

XV. A NEW AGREEMENT

671 On the 15th February 1916 the Parganas, Desmanjhis, Sardars, and different other people of the Dumka district gathered in Dumka and talked about their daughters and widows. Having talked the matter over, they came to the conclusion: It would be very good, if what is printed here below became law:

Daughters.

428 1. If a man has only daughters, these will be his heirs when married, that is to say, their husbands will get the rice- and other land.

The brothers of the father will get half the cattle. The man who sets fire to the mouth of the dead will get a calf. If a girl, for whom they have brought a house-son-in-law dies without having children, the house-son-in-law gets nothing; he goes out and away with his calf.

2. When a man has sons and daughters, and the sons die without having children, the girls become the heirs, that is to say, the father or the brothers may bring house-sons-in-law for the girls, or they may bring the husband to the girl's father's home to live there.

3. If a girl is married without a house-son-in-law being brought for her she will not become heir.

4. If a house-son-in-law does not stay, his rights end.

5. If a girl for whom they have brought a house-son-in-law dies after having borne children, her children will get the rights of their mother; and the house-son-in-law will stay there until he remarries, and his children will support him. If he remarries, he will go out and away.

Widows.

428 When a woman becomes a widow, she has the right to be supported from her husband's
736 home, so long as she lives.

If she is married again, her right in the house of her first husband ceases.

Until she is married again, a widow may manage the house of her husband; but when the woman dies or is married again, all rice- and other land will belong to the brothers of her husband or their heirs.

3t Mukherjea O. Y-4, 8 (ca. 1933-1939) 1902
AW42 Santal AW42

614 Thus theoretically speaking at least, each of its group is exogamous as far as its own group is concerned, but endogamous in relation to the other groups, who are *Bòndhus*, subject to a variety of other restrictions, as we shall soon see in detail.
[174] Broadly speaking, this arrangement points to the existence of a dual division among the Santals in the past for matrimonial purposes.

It may be noted here that the various Santal clans have their own *gadi* (original seats). If it so chances that a Santal finds his own *gadi*, the same with that of others, his attraction is stronger towards his clan-group than to his other relatives, however near they may be. Thus there is a solid tie among the
[783] *Jàtià Peras* (friends of the same blood) belonging
[764] to the same clan, all of whose members undergo ceremonial pollution on the death of one of the
[571] clan. Thus clan-ties amongst Santals transcend even degrees of relationship.

[428] The son inherits the clan-name of his father
[69] and lives with his father as of right. The father
[611] is the natural guardian of the children, and the way in which descent is reckoned is patrilineal. The
[562] Santal wife has no legal status in the eye of tribal jurisprudence; she is simply bought and belongs to the husband's family as a chattel. And the type
[594] of family that centres round the father as the head, may be characterised as patripotestal.

3i Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
AW42 Santal AW42

dangers visiting the tribe. In the background of their minds, they are not imbued by any moral feelings or any sense of tribal aristocracy. Some think that in case of such transgression, the gods in their ire will send drought and famine and pestilence in the place thus visited by sin as it is an insult to them. But when one analyses the behaviour of the Santal masses, when they receive news of prohibited sexual congress and the collective indignation they give vent to as a reaction, one is led to believe that the Santal's almost "instinctive fear of such defilement has behind it also the sub-conscious and, to all appearances, instinctive fear of a mysterious dangerous power of the nature of *mana* infecting the erring woman and her family and calculated to prove contaminating and destructive as death."[1]

Santal Customary Law

We have seen in the foregoing pages that the village-council is the repository of Santal tribal law concerning succession and inheritance. It is therefore necessary for us to give the reader some idea of the law on the subject.

Generally speaking, all the sons of a Santal have equal shares of inheritance in the properties left by their deceased father. The daughter has no right

1. The Kharias. Page 177. Rai Bahadur S. C. Roy.

181 619 783 784 181 783 778 671 623 428 428 [113]

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
AW42 Santal AW42

428 of any claim to a portion, as we shall see in detail later on. The father steps into the shoes of his childless son; and the line of devolution next descends to the brothers (in the absence of the father), and thereafter to the male agnates. In case even agnates are wanting in the chain of succession, the turn comes to the daughter in trust for her children. The widow, as such, has no rights even of maintenance, but if she has minor children, she can manage the property till the sons attain majority and receive their shares. A widow who marries again, receives nothing; and the male agnates manage the property till the children come of age.

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Santal Customary Law at Mayurbhanj

Customary law of the Santal has been thoroughly affected by Hindu law in the Mayurbhanj State. This struck us while we were at Muruda when in answer to our question as to the daughter's rights of inheritance, a woman answered that should a Santal householder die without leaving male issues, the daughter will succeed in preference to all agnates. Questioned about the widow's rights of inheritance, she replied that should a Santal die leaving his wife and separated brothers of the full blood, the widow inherits everything of her husband's share. We write this to show how the principles of Hindu law of *Mitakshòra* branch have

31 Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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permeated the Santal mind. As a result, through disuse, the Santal has well nigh forgotten his old tribal law governing the disposal of property, real or personal. On closer enquiries from local lawyers we understood that the courts have uniformly upheld *Mitakshôra* Hindu Law as governing the Santal, both as substantive law and as principles of justice, equity and good conscience. A pleader[1] who handled the largest number of Santal clients told us that in his experience, the Santal has seldom tried to plead his personal tribal law. The only case he knew was decided at Panchpir about the year 1928, when local custom to the exclusion of daughter's rights of inheritance was seriously pleaded by the defendant agnate alleging *inter alia* that the daughter is not entitled according to tribal custom to offer *pindas* to her parents which only could constitute her right to property. But the evidence adduced in support of the custom was found insufficient, not ancient and invariable, a difficult proposition for a Santal to establish, and the court allowed the daughter's rights of inheritance on principles of equity. This case, said the pleader, was rather in the nature of an exception proving the rule that the Santal does not seriously plead his tribal custom in

1. Mr. Paresh Ch. Bose, pleader, Baripada.

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
AW42 Santal AW42
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lawsuits, and even if he does rarely, he fails miserably to establish it.

So in the domain of partition and inheritance, we find that the sons share equally, the daughter succeeds when there is no son to the man who dies. The widowed mother has her rights of maintenance recognised at the hands of her sons. The sonless widow becomes the sole proprietor, and like the *Mitakshòra* widow, cannot alienate property without legal necessity.

Adoption (Pushapo)

The Santal who has no son can adopt a son in Mayurbhanj. The adopted son is generally a relation and rarely unrelated. The adoption is made in the presence of the Headman and the Panchayet. Now, occasionally, proceedings are recorded in writing, but previously everything was oral. The devolution of property follows the *Mitakshòra* branch of Hindu law.

Ghar-Jamai

As in the Santal Parganas, the Santals of Mayurbhanj have the custom of providing for their daughters through the institution known as "domesticated son-in-law" (Ghar Janwane or Ghardi Janwane: there is however a subtle difference between the two). His rights here are essentially the same as in S. P. So if there be a son, and such a son-in-law

31 Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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to a man, on the death of the man, such a domesticated daughter's husband has no rights. If a Santal dies leaving such a son-in-law who again loses his wife, the property goes to the agnates of his father-in-law. 428 606

Partition

Partitions, in Mayurbhanj, follow the *Mitakshòra* branch of Hindu law, but the parties to a partition, in most cases, voluntarily allow a bigger share to the eldest brother or to his heirs, as *Iyasthangshò* (the share of the eldest brother). 428 [177]

Legal status of Santal women 562

In Mayurbhanj: The legal status enjoyed by Santal women in Mayurbhanj can be described as follows:—

(1) If a married man has no child, he can marry again according to Santal customary law. Bride-price is paid in both cases. [587] [583]

(2) If a man has more than one wife, even if some of them might be called *rakhni* (mistress, lit. a kept woman) they inherit equally. [595] [428]

(3) A man can marry as many wives as he likes, but a woman cannot have more than one husband at a time. [595]

(4) *Punchayets* as well as law-courts will give relief to the wife, even if called "*rakhni*," who is deserted by her husband or not given maintenance. [586] [736]

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562 585 302 (5) Vermilion is applied as a mark of recognition, even to a *rakhni* (mistress), by a married woman of any Santal clan during marriage ceremonies. when all married women of the tribe are anointed according to custom.

562 428 (6) When a man dies leaving his wife and brother and other kins on both sides, the widow inherits everything, provided her husband was separate from his brothers. But if he lived jointly (with his brothers), the widow gets maintenance only.

(7) The daughter has no share in her father's property, if there are male children.

(8) But if there are no sons, the daughter inherits in preference to all agnates.

562 *Legal status of Santal women in the Santal Parganas*

The status enjoyed by the Santal woman in her tribal fabric as revealed by the researches of Rev. P. O. Bodding presents an interesting study to show how an originally legal non-entity is gradually acquiring her rights of property recognised by indirect legal fictions.

[538] To revert to Santal myths and folk-tales we find woman being credited with uncanny powers associated with witches. Women, to the primitive Santal, can befool even the "*Boṅgas*" (the evil-spirit deities)

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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So as a chattel she belongs in her minority to her father, she is bought as such by her husband and when her coverture ceases on her husband's death, she reverts to her original owners. But if her father is dead and none of her original kinsmen kindly takes charge of her, she drifts as a piece of *res-nullius*, without any *locus standi* in the social life. 562

It is not strange, therefore, that having converted her into a piece of property, the tribal laws could not legally and logically bestow on her any rights to hold and own property, real or personal.

But as we have observed before, Santal tribal jurisprudence has changed and is still changing a great deal. In the domain of the ownership of personal properties, this improved position is the most perceptible. It is seen that now they can own money, cattle and goods. This ownership is completed legal right, for they have the power of disposing of these to whomsoever she pleases. She is not merely the trustee, as the Hindu widow is, with regard to her widow's estate. 562 172 178 422

It is frequently seen that when property is divided between the sons, a loving father will bestow on his daughter some heads of cattle or some pin-money, to be her personal property. Thus we find that the ornaments of the women are their own. They enjoy the fullest powers of disposal over them. But sometimes they are made to store family money. 428 562

3i Mukherjea O, Y-4, 5 (ca. 1933-1939) 1962
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is not far to seek. The Santal tenant has, as a member of his tribe, certain duties religious and social, but the woman for the reason of her sex, is not allowed to perform them. 562 423

But we have human feelings to count. There are fond fathers who want their daughters to be provided with lands, and there are others who may have no sons but only daughters. In the latter case all the lands of the deceased Santal tenant will go to the next of his kin. An interesting method has long existed in Santal customary law to get rid of this position for providing the daughter with lands. 562 423 428

Such a father gives his daughter in marriage to a *ghardi jawane* (domesticated son-in-law). He is a son-in-law invested with the position of a son of the family. He does not pay for his bride in cash. He serves it out in the house of his father-in-law, and thus pays by his work, generally for a period of five years. On the expiry of this term, he is free to leave his father-in-law's house. 562 423 428 606 [583]

The son-in-law in this case is not allowed by tribal customs to anything but his wife. After the death of his parents-in-law, he is not himself the inheritor. He is, in the eye of law and fact, merely the conduit-pipe for the provision of the children of the marriage. He does not become an heir by the mere fact of marriage. If it is intended that the *ghardi jawane* will inherit, this has got to be speci-

3t Mukherjea O. Y-4, 5 (ca. 1933-1939) 1962
AW42 Santal AW42
SANTAL PARGA

562 423 428 606 ically arranged at the time of marriage by a pu declaration, which has all the force of an oral w

As a matter of fact, it is the daughter w inherits. The *ghardi janwane* is the representati as tenant and owner of the woman in the eye o tribal law, who has no rights of inheritance recogn sed for her. This position will be still more clea when we remember that if the *ghardi janwane* leaves his father-in-law's protection, his rights in his father-in-law's lands melt away for ever. And never has his own relatives any right to his so-called inheritance. The children of the marriage are the only beneficiaries. In case the *ghardi janwane*'s wife [671] dies, the tribal customs generally allow him a life-interest only, provided he does not remarry. This legal fiction was created by Santal customary law to provide lands for daughters; because, as women, they cannot perform certain social and religious duties which only men can perform.

562 423 428 178 But times are changing. So we find in many cases the Settlement courts have recorded daughters as *raiyats* in agricultural lands, and provided them with a life-tenure; and reformist Santal associations are trying for the recognition of the rights of inheritance of married Santal girls.

736 671 423 422 But the lot of the widow in the Santal customary law is the hardest. She is not entitled to any land, although she may own personal property, either in her father's home or in her husband's.

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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either in her father's home or in her husband's. It may be that children may look after their widowed mother out of kindness and gratitude, but she has no rights ecognised for her. But if she has no children, the only alternative is again the kindness of the members of her husband's family. If they are hard-hearted, she is thrown adrift in this wide world.

There were, however, signs of Santal public opinion asserting itself to ameliorate the condition of the widows. A section of Santal educated opinion recently wanted that the widow should have her rights of maintenance out of her late husband's properties, till she remarried. But tribal laws are hard and conservatism is deep-rooted.[1]

The ultimate result of the reformist moves can be gleaned from the Santal Parganas Enquiry Committee Report published in 1938. The committee (page 49) while discussing "Transfer by gift or will" notices that "there has been for many years a slow trend towards a change in the law which would give (Santal) women a recognised position. But there is no unanimity among the Santals on the point. The committee examined a number of witnesses on the point, among others, the President of the Santal

1. With acknowledgments to Rev. P. O. Bodding.

3i Mukherjea O, Y-4, 5 (ca. 1933-1939) 1962
AW42 Santal AW-2
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Malko Sabha.[1] But even this body which represents more advanced opinion was not in favour of permitting a Santal to transfer by will anything except his self-acquired property; and the President admitted that this change would have little practical effect, since the laws against alienation practically limit the self-acquired property to such land as the raiyat has himself reclaimed."

Considering all these, the committee did not think a change ought to be enforced by legislation and hoped that the customary law would develop 'naturally and gradually.' Finally, they recommended that civil cases involving questions of Santal law of inheritance should, where possible, be referred to arbitration by Santal arbitrators to facilitate the growth of a convention.

Conclusion

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We have already seen that the Santals have a well-knit social organization which moulds their thoughts, feelings and actions. So the sentiments produced in the mind of the tribe have a special stamp of their own. The actions inspired by these ideas have a similarity under social discipline and these, in their turn, crystallize into usages, and next,

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1. Hõṛ Malto Maraṅ sabha (?)

3t Mukherjea O. Y-4,5 (ca. 1933-1939) 1962
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The old Santal would not grow potato due to their conservative instincts even when Pontet asked them, now they grow it along with tomato. The women now wear mill-made saris and in the urban areas of Santal Parganas, they seem indistinguishable from their Hindu sisters, because in fairs and rallies, they generally dress alike. Some widows, it has been seen at Bolpur, dress themselves in white. It is interesting to hear that in some areas, there is lesser divorce. And due to the impact of new ideas women's right in inheritance is being slowly recognised by the state and the society through indirect legal fictions.

With ideas of reform in the atmosphere, some acting as disintegrating forces, others operating on a constructive basis, it was no surprise to us to come across a manifesto signed by some prominent educated Santals of Bengal and some parts of Bihar calling upon their brethren of Midnapore, Bankura, Manbhum, Singbhum and other areas to engage in social reforms for the maintenance of their tribal honour. It stated that the Santals had firmly resolved that:

1. No Santal, man or woman, should drink *Pochoi* (rice-beer) in shops as the tribe had been ruined by drink while the grog-shop owners and *mahajans* were becoming rich. Temperance would help the Santals financially.

4: Biswas D, E-3, 4 (1931-1945) 1956
AW42 Santal AW42
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All petty disputes, both of a civil and criminal nature, are settled there but if the matter to be settled is of an immoral and shameful character, they go to the end of the village street or on some other convenient place where they need not fear to hurt the feelings of their womenkind.

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Inheritance: In the matter of inheritance, the Santals follow their own customs and know nothing of the so-called codes which govern the devolution of property among the Hindus. Till the death of the father the property of the family remains intact and all the members enjoy in common. After his death the property is divided among his sons equally except that the eldest gets a bullock and a rupee more than the others. As the Santal women have no right to any of the property, movable and immovable, the question of inheritance on their part cannot arise at all. If a man dies without an issue his property goes to the nearest relation. If the father of the deceased remains alive the property will revert to the father; if he is dead it goes to the brothers of the deceased equally; if the latter are dead their sons succeed. In default of this the paternal uncles and their sons become successors. The condition of the widow of a childless man becomes very bad; none takes her charge. Sometimes she gets one cloth, a bati (brass vessel), a calf and 10 to 12 maunds of paddy. Sometimes also it can be seen that her husband's younger brothers keep her. Even when one of the younger brothers keeps her, the share of the deceased brother is equally divided between all the brothers. If the younger brothers of her husband do not give her any shelter she returns to her parents'

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4; Biswas D, E-3, 4 (1931-1945) 1956
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428 768 house. If a man leaves only daughters (unmarried) their paternal grandfather or uncles take charge of them and of the widow and the property remains in their possession. They give to these girls the presents which they get during their marriage as their own property, but the bride-price goes to guardians, headman, etc. After marriage the widow gets the perquisites of a childless widow and returns to her father's or to her daughter's house. In many cases it can be seen that one of the sons-in-law becomes gharda-jawae. He lives with his wife in the father-in-laws house and helps him in every possible way like a son till he dies, when the gharda-jawae inherits all the immovable property and half the movable property ; the other half goes to the relatives of the deceased.

If a man dies leaving a widow and several sons (minor), then the widow keeps all the property in her possession. The grandfather or uncles of the sons see that the widow does not waste it. If the widow [587] [429] remarries before her son's marriage the grandfather and uncles take possession of the property The mother of the sons has no right to any part of it. Sometimes it can be seen that the widow gets a calf which is known as *Bhandhar*. If the widow does not marry again, she lives with her sons, generally with the youngest son. The youngest son then claims the property of his mother after her death. No other can claim it.

596 **Partition**: Partition in a Santal family generally takes place when members become numerous in a family, and a single house cannot accommodate all

the members; or if the sons do not live happily together, specially when the father has married again and had other issue, the parents make a partition. This partition takes place in the presence of the members of the Kulidrup (the council of the village people). A Kulidrup is called and the father divides all the land, cattle, and other things. The landed property is divided equally, the father and the sons get a share each. The house is also divided equally among the sons and father. If in a house there are four rooms then each will get one, provided all are married. The son with whom the parents live retains possession of their share during their lifetime. Unmarried sons get a double share of the live-stock, one share, for their marriage expenses. Daughters get no share in the property but if they are unmarried they get one calf each, that being the dowry to be given them at marriage, because during the marriage the bride's side has to give a calf to the brother of the bridegroom. The cattle which the sons get at their marriage are divided. But the cattle which the daughters-in-law received from their fathers, brothers and from their fathers-in-law at the time of marriage are not divided. After the death of the wife of a Santal, her unmarried sons cannot claim a partition even if their father takes a second wife, but they can do so if they like after marriage. If the second wife has no children when the father dies the sons by his first wife will get the share of the father provided they agree to pay for the funeral of their step-mother.

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CHAPTER 10

BIRTH AND INITIATION

858 The birth of a child is an occasion for rejoicing, and the event is announced by saying: "The new relation has arrived." Children are spoken of as the gift of *Cando*, which indicates that they are considered to be assets to the family. It is true that boys are rather more welcome than girls; every family desires that the first child should be a boy who will ensure the survival of that particular family within the clan. A boy can inherit his father's lands, and one day he will be required to assist at his father's funeral ceremonies and perpetuate the worship of his own ancestors. Girls are welcomed, though not to the same degree. Through their marriages they will in due course extend the range of the family's relationships, but they bring but a small economic return to their parents, and the bride price received at marriage is not comparable to the expense of bringing them to maturity. Where a family consists of both boys and girls in equal proportion the girls are well treated, and when later on they go to other homes their places will be filled by daughters-in-law. When, on the other hand, a woman gives birth to a succession of daughters she is likely to feel the displeasure of her husband's relations. A third or fourth daughter born into a home where the husband's mother reigns supreme does not enjoy much prospect of survival. Children are valued from the first because of their potential working ability. A villager, on hearing that a birth has taken place, responds at once with the question: "What is it? Does it carry on the shoulder (a boy) or does it carry on the head (a girl)?" Or he may say: "Is it a hunter or is it a water carrier?"[1]

842 There are Hindu shrines in the area to which Santal women resort along with others when other means of securing the birth of a longed-for child have proved of no avail. A spirit who can grant the boon of children resides near the village of Raniband at the summit of a hill which rises abruptly from the plain and is the highest point in the whole area. Cases have been reported of Santal man and wife making the climb together in order to present an offering. In most cases, however, the husband preserves an air of indifference; if his wife fails to bear a child he is

[1] Another way of referring to the sex of children, though not at the time of birth, is for a parent to say: "I have three *iṛi* and three *erha*", which signifies three boys and three girls. *Iṛi* is a cultivated millet (*Panicum crusgalli*, L.) and *erha* is a cultivated grain (*Setaria italica*, Kunth).

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law", comes to live there. This arrangement is common to all agricultural communities in Bengal. Among the Santals no bride price has to be paid, and in some instances the marriage ceremony is postponed till the end of a trial period during which the youth lives in the home of his future father-in-law and works for him without wages. He is accepted as the girl's husband when he is known to be a good worker, and thereby he also establishes his claim to receiving a portion of the land when his father-in-law dies. He does not change his clan, for this he cannot do, but he and his heirs can inherit from his wife's father. Hence this form of marriage furnishes the only exception to the rule that land must not pass out of the possession of the clan.

The term for divorce comes from the symbolic act that accompanies it. It is *sakam orec'*, or "leaf tearing". There are two sufficient reasons for a man to divorce his wife. The first is infidelity and the second is witchcraft. As marriage is a contract that involves two villages, representatives of both villages are summoned to sanction the divorce. The bride's father is compelled to return the bride price and the husband makes formal declaration of the divorce. He takes a *sarjom* leaf between his hands and tears it down the centre in token of the dissolution of the marriage tie. Then he has to provide a meal for those who have been summoned to the council. Owing to the fact that the bride price has to be repaid to the husband's family, the parents of the bride frequently object to the action, and where the guilt of the wife requires to be proved the proceedings may drag on for several months. If her parents can show that some blame attaches to the husband they can retain the bride price, and this they usually wish to do even when they do not desire their daughter to be reinstated in her husband's home. Until the bride price has been repaid the formal dissolution cannot take place.

A wife cannot formally divorce her husband, but she can, and sometimes does, refuse to continue to live with him. The problem of the runaway wife is one that is continually exercising the Santal village community, a fact that suggests the existence of many underlying strains. The mother-in-law is frequently blamed. In one family well known to me the wife of the younger son ran to her own home during the cultivation season in several successive years. At that time her presence was greatly needed to help with the fields, and she asserted her rights by running away. Her own explanation was that her mother-in-law made her work too hard and did not give her enough to eat. She remained with her own parents, who were not unwilling to feed